

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

James H. Canel	:	
	:	
-vs-	:	08-0562
	:	
North Shore Gas Company	:	
	:	
Complaint as to billing/charges	:	
in Glencoe, Illinois.	:	

RESPONDENT'S BRIEF

Introduction

This complaint is about whether the Complainant, James H. Canel, owes the Respondent, North Shore Gas Company, a \$2,500.00 gas bill for gas consumed at Complainant's residence, 344 Surfside Place, Glencoe, Illinois ("Home") for the months of March and April 2008. As the Complainant, an attorney, is fully aware, he has the burden of proof to show that he did not consume the gas for the period in question.

In sum, Respondent contends that a gas line leak to Complainant's gas grill at his Home caused the large gas consumption, which, in turn, caused the large gas bill. Complainant contends that he did not use the gas, there was no leak, and he has been overbilled by the Respondent.

The succeeding portions of this Brief will outline the evidence presented by the Respondent and the speculation made by the Complainant. In discussing the evidence presented, Respondent will separate the facts and evidence presented by Respondent's six witnesses versus the unsupported speculation of the Complainant regarding this high bill complaint.

The inescapable conclusions will be: 1) Complainant has not sustained his burden of proof; 2) Respondent's April 22, 2008 gas bill correctly measured Complainant's gas usage for March and April; and 3) the complaint should be denied.

Respondent's Evidence

At the outset, note that all of the witnesses, the Complainant and the six Respondent witnesses were called as adverse witnesses. The first Respondent witness examined by the Complainant was Mary Saunders, a pipe fitter. Ms. Saunders investigated a gas leak at the Complainant's Home on February 20, 2008. She had no independent recollection of visiting the Home; however, her investigation report indicated that there was a gas odor at the end of the Home's driveway. Her report, Respondent's Exhibit 1A, indicates that the Complainant called Respondent complaining of a gas leak. Ms. Saunders noted that the gas odor emanated from a neighbor's residence where work was being done. She found no gas leak.

The second Respondent witness was Eduardo Arce, who, in April 2008 was an account representative in the billing department. As part of his duties as an account representative, he would review billings determined to be too high or low. He would compare a current bill with previous bills and if, he believed the current bill was too high, he would send out a meter reader to verify the meter reading. While he had no independent recollection of the Complainant's gas account, Respondent's Exhibits 2A indicated that he issued an order of verification and Exhibit 2B and 2C indicated that the gas meter reading was verified at an index of 9169. The reading, which the Complainant was billed to as of April 22, 2008 was 9149. He then issued the \$2,500.00 bill to the Complainant.

The person who verified the index reading of 9169 was the next Respondent witness, Samuel Adams. Mr. Adams is a service fitter with the Respondent. On April 25, 2008, he visited the Home and verified the 9169 meter reading. He only read the meter and did not go into the backyard. He found nothing physically wrong with the gas meter. (Tr. 118) He did not examine the grill or the line running to the grill. (Tr. 118-119)

Mr. Adams made a second visit to the Home on June 4, 2008 based on a high bill complaint by the Complainant. At that time, he read the gas meter and checked the appliances in the Home. He found no gas leaks in the Home. He opined that the bill could not be so high based upon the gas appliances that the Complainant had in the Home. (Tr. 103) He repeated that opinion in a transcribed telephone conversation on that date. He did opine that if the line running to the grill had been cut, the gas bill would be higher. (Tr. 122)

The fourth Respondent witness was Laura Stevens, a pipe fitter. On June 5, 2008, Ms. Stevens visited the Home. While she had no independent recollection of visiting the Home, her notes were memorialized on Respondent's Exhibits 4B and 4C. On Exhibit 4A, a service order was generated as a result of a call being made stating that the customer (Complainant) smelled gas outside, but was not sure where. At the Home, she performed a standing meter test, Exhibit 4B, which indicated a leak in the fuel line to the grill. On Respondent's Exhibits 4B and 4C, she noted that she could not find the origin of the leak. Ms. Stevens described how a standing meter test is done. All of the gas appliances are turned off, then the gas is turned on and watch the meter for five minutes

to see if there is any movement of the foot dial which would indicate a leak. (Tr.145) Ms. Stevens detected the leak by taking the standing meter test of the valve running separately from the Home gas meter. (Tr. 138) She explained that the test involves turning the valve on and it spinning and when it stops when it is turned off that indicates that the line is leaking.

Nichole Cutler, the fifth Respondent witness, is a supervisor in the billing department. Ms. Cutler described her two conversations with the Complainant. Her first conversation occurred on June 6, 2008. Complainant requested to have his gas meter tagged, tested and changed. The meter was successfully tested and changed. (Tr. 156) She noted that there was a potential gas leak of the gas grill. (Tr. 160)

The second conversation occurred on July 23, 2008 after the meter was tested on June 30, 2008. Ms. Cutler informed the Complainant that the meter was tested and passed and his gas bill was correct. (Tr. 160-161) She testified that her investigation of Complainant's bill consisted of the passed meter test and the leak of the gas line. She testified that Mr. Adams only documented that there was no leak of the inside the Home gas appliances and he did not document any of the outside gas appliances.

Ms. Cutler testified that based on her July 23, 2008 conversation with the Complainant, she closed his dispute. Since the dispute was closed and there was no payment, the amount owed was no longer in dispute and the Home was subject to disconnection. (Tr. 179)

Respondent's final witness was John Riordan, a billing supervisor in the customer relations department of Peoples Gas. Among other things, his department handles informal and formal disputes at the Commission. Mr. Riordan explained the billing and

dispute process. He testified that the Respondent considered Complainant's billing issues as three separate disputes; one that was handled by Ms. Cutler and closed on July 23, 2008, a second, the informal complaint that was completed on August 29, 2008, and, the third, the formal complaint filed by the Complainant.

Mr. Riordan outlined for the Complainant the bases for the various gas bills he received from April 22 through December 18, 2008, Respondent's Exhibit 7, explaining how the Respondent derived the various bill amounts.

Complainant's Testimony

Complainant began his testimony by describing the gas appliances in his Home. He has lived in the Home since 1985 and last replaced his grill in 2001-2002. On Complainant's Exhibit 9, he provided a recap of his gas bills and payments from May 1994 through June 2008. In February 2008, he called Respondent because of a gas smell in the driveway, but no source of the gas smell was found. He claimed that the Respondent's representative checked the gas line to the grill and commented that it was a "plastic kind of line that tended to deteriorate over time...." (Tr. 251) He testified that when Mr. Adams came out to the Home, he did not find any gas leak. He testified that in a conversation with Ms. Cutler, she told him that unless there was "yellow grass or dead plants," (Tr. 253) the bill could not possibly be so high and she told him that Respondent would pull the meter. He testified that when either Ms. Sanders or Ms. Stevens came out to the Home, one of them suspected that the gas line was leaking to the grill. (Tr. 254-255) He testified that around the first of September, North Shore Lawn Sprinklers came out and replaced the gas line to the grill. (Tr. 256)

Conclusions

The ultimate conclusion to be derived from all the testimony provided in this proceeding is that there was a leak in the gas line to the grill at the Complainant's Home. In February 2008, Complainant smelled gas outside his Home. Other conclusions support the ultimate conclusion. In April 2008, Mr. Adams verified that the gas meter was not damaged and verified the reading at 9169. In June, Ms. Stevens performed a standing meter test which detected a leak in the gas line to the grill. The Complainant was aware of the leak and replaced the gas line running to the grill.

The evidence of what the Respondent witnesses did regarding the Complainant's complaint is set forth in the exhibits taken from the books and records of Respondent. Complainant, on the other hand, had no documentary support for any of his contentions regarding the use of a "sniffer" by Respondent employees, their examination of the grill in the backyard of his Home, the condition of the grass in the backyard, or even when he replaced the gas line to the grill. As stated at the outset of this Brief and as indicated by his examination of the Respondent witnesses, Complainant provided only speculation regarding his April 2008 gas bill. Respondent provided facts demonstrating that the bill was correct.

On the basis of the foregoing, Complainant has failed to sustain his burden of proof and his complaint should be denied.

Respectfully submitted,
North Shore Gas Company

By: _____
Mark L. Goldstein, Its Attorney

CERTIFICATE OF SERVICE

I hereby certify that on May 4, 2009, I served a copy of the Respondent's Brief in the manner indicated below, addressed to each of the parties indicated below:

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